

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WALTER P. HUGHES,)	
)	
Plaintiff,)	
)	
v.)	Civil Docket No. 04 11662VHG
)	
THOMAS McMENAMON, JR.)	
)	
and)	
)	
AMERICA ONLINE, INC.,)	
)	
Defendants.)	
)	

**OPPOSITION TO PLAINTIFF’S MOTION FOR “APPROPRIATE
ACTION PURSUANT TO CANON 3(B) OF THE CODE OF CONDUCT FOR
UNITED STATES JUDGES OR TO RECUSE PURSUANT TO 28 U.S.C. 455(A)”**

On October 13, 2004, Plaintiff filed a motion asking the court to take action under Canon 3(B)(3) of the Code of Conduct for United States Judges or to recuse Magistrate Judge Collings pursuant to 28 U.S.C. 455(A). Specifically, Plaintiff “prays that this Court do what it requires all persons who appear before it do, obey the law; and by doing so remove the stigma of slogan from the profound words . . . regarding truth and justice that are conspicuously engraved on the walls of the John Joseph Moakley Courthouse.” (Motion at 17.)

Plaintiff’s request for recusal here is entirely inappropriate, as all of his allegations of judicial misconduct are targeted at Magistrate Judge Collings, who is not even assigned to this case. In any event, Plaintiff’s motion raises the same nonsensical and unmeritorious allegations asserted in his Complaint, and should be rejected for the reasons set forth in America Online, Inc. (“AOL”)’s Motion to Dismiss filed on October 4, 2004. Furthermore, Plaintiff’s filing of

this vexatious motion provides further evidence as to why the Court should grant AOL's Motion for Sanctions Under Rule 11 filed on October 15, 2004, and prohibit Plaintiff from further burdening the Court or AOL with yet further rehashings of the same rejected claims.

CONCLUSION

For the foregoing reasons, the Court should deny Plaintiff's Motion for Appropriate Action Pursuant to Canon 3(B)(3) of the Code of Conduct for United States Judges or to Recuse Pursuant to 28 U.S.C. 455(a).

Respectfully submitted,

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November 1, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above and foregoing Memorandum in Support of Defendant's Motion for Sanctions has been served on the following counsel of record via first class United States mail, postage prepaid, this 1st day of November, 2004:

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